



Sen. Emil Jones, III

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1 AMENDMENT TO SENATE BILL 1853

2 AMENDMENT NO. _____. Amend Senate Bill 1853 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing
5 Section 3-3034 as follows:

6 (55 ILCS 5/3-3034) (from Ch. 34, par. 3-3034)

7 Sec. 3-3034. Disposition of body. After the inquest the
8 coroner may deliver the body or human remains of the deceased
9 to the family of the deceased or, if there are no family
10 members to accept the body or the remains, then to friends of
11 the deceased, if there be any, but if not, the coroner shall
12 cause the body or the remains to be decently buried, cremated,
13 or donated for medical science purposes, the expenses to be
14 paid from the property of the deceased, if there is sufficient,
15 if not, by the county. The coroner may not approve the
16 cremation or donation of the body if it is necessary to

1 preserve the body for law enforcement purposes. If the State
2 Treasurer, pursuant to the Uniform Disposition of Unclaimed
3 Property Act, delivers human remains to the coroner, the
4 coroner shall cause the human remains to be disposed of as
5 provided in this Section. If the police department of any city,
6 town, or county investigates abandoned cremated remains and can
7 not locate the owner of the cremated remains that are also
8 considered as human remains, then the police shall deliver such
9 human remains to the coroner, and the coroner shall cause the
10 human remains to be disposed of as provided in this Section.

11 (Source: P.A. 96-1339, eff. 7-27-10.)

12 Section 10. The Cemetery Oversight Act is amended by
13 changing Section 5-15 as follows:

14 (225 ILCS 411/5-15)

15 (Section scheduled to be repealed on January 1, 2021)

16 Sec. 5-15. Definitions. In this Act:

17 "Address of record" means the designated address recorded
18 by the Department in the applicant's or licensee's application
19 file or license file. It is the duty of the applicant or
20 licensee to inform the Department of any change of address
21 within 14 days either through the Department's website or by
22 contacting the Department's licensure maintenance unit. The
23 address of record for a cemetery authority shall be the
24 permanent street address of the cemetery.

1 "Applicant" means a person applying for licensure under
2 this Act as a cemetery authority, cemetery manager, or customer
3 service employee. Any applicant or any person who holds himself
4 or herself out as an applicant is considered a licensee for
5 purposes of enforcement, investigation, hearings, and the
6 Illinois Administrative Procedure Act.

7 "Burial permit" means a permit for the disposition of a
8 dead human body that is filed with the Illinois Department of
9 Public Health.

10 "Care" means the maintenance of a cemetery and of the lots,
11 graves, crypts, niches, family mausoleums, memorials, and
12 markers therein, including: (i) the cutting and trimming of
13 lawn, shrubs, and trees at reasonable intervals; (ii) keeping
14 in repair the drains, water lines, roads, buildings, fences,
15 and other structures, in keeping with a well-maintained
16 cemetery as provided for in Section 20-5 of this Act and
17 otherwise as required by rule; (iii) maintenance of machinery,
18 tools, and equipment for such care; (iv) compensation of
19 cemetery workers, any discretionary payment of insurance
20 premiums, and any reasonable payments for workers' pension and
21 other benefits plans; and (v) the payment of expenses necessary
22 for such purposes and for maintaining necessary records of lot
23 ownership, transfers, and burials.

24 "Care funds", as distinguished from receipts from annual
25 charges or gifts for current or annual care, means any realty
26 or personalty impressed with a trust by the terms of any gift,

1 grant, contribution, payment, legacy, or pursuant to contract,
2 accepted by any cemetery authority or by any trustee, licensee,
3 agent, or custodian for the same, under Article 15 of this Act,
4 and any income accumulated therefrom, where legally so directed
5 by the terms of the transaction by which the principal was
6 established.

7 "Cemetery" means any land or structure in this State
8 dedicated to and used, or intended to be used, for the
9 interment, inurnment, or entombment of human remains.

10 "Cemetery association" means an association of 6 or more
11 persons, and their successors in trust, who have received
12 articles of organization from the Secretary of State to operate
13 a cemetery; the articles of organization shall be in perpetuity
14 and in trust for the use and benefit of all persons who may
15 acquire burial lots in a cemetery.

16 "Cemetery authority" means any individual or legal entity
17 that owns or controls cemetery lands or property.

18 "Cemetery manager" means an individual who is engaged in,
19 or responsible for, or holding himself or herself out as
20 engaged in, those activities involved in or incidental to
21 supervising the following: the maintenance, operation,
22 development, or improvement of a cemetery licensed under this
23 Act; the interment of human remains; or the care, preservation,
24 and embellishment of cemetery property. This definition
25 includes, without limitation, an employee, an individual that
26 is an independent contractor, an individual employed or

1 contracted by an independent contractor, a third-party vendor,
2 or an individual employed or contracted by a third-party vendor
3 who is engaged in, or holding himself or herself out as engaged
4 in, those activities involved in or incidental to supervising
5 the following: the maintenance, operation, development, or
6 improvement of a cemetery licensed under this Act; the
7 interment of human remains; or the care, preservation, and
8 embellishment of cemetery property.

9 "Cemetery operation" means to engage or attempt to engage
10 in the interment, inurnment, or entombment of human remains or
11 to engage in or attempt to engage in the care of a cemetery.

12 "Cemetery Oversight Database" means a database certified
13 by the Department as effective in tracking the interment,
14 entombment, or inurnment of human remains.

15 "Cemetery worker" means an individual, including an
16 independent contractor or third-party vendor, who performs any
17 work at the cemetery that is customarily performed by one or
18 more cemetery employees, including openings and closings of
19 vaults and graves, stone settings, inurnments, interments,
20 entombments, administrative work, handling of any official
21 burial records, the preparation of foundations for memorials,
22 and routine cemetery maintenance. This definition does not
23 include uncompensated, volunteer workers.

24 "Certificate of organization" means the document received
25 by a cemetery association from the Secretary of State that
26 indicates that the cemetery association shall be deemed fully

1 organized as a body corporate under the name adopted and in its
2 corporate name may sue and be sued.

3 "Comptroller" means the Comptroller of the State of
4 Illinois.

5 "Consumer" means a person, or the persons given priority
6 for the disposition of an individual's remains under the
7 Disposition of Remains Act, who purchases or is considering
8 purchasing cemetery, burial, or cremation products or services
9 from a cemetery authority or crematory authority, whether for
10 themselves or for another person.

11 "Customer service employee" means an individual who has
12 direct contact with consumers and explains cemetery
13 merchandise or services or negotiates, develops, or finalizes
14 contracts with consumers. This definition includes, without
15 limitation, an employee, an individual that is an independent
16 contractor, an individual that is employed or contracted by an
17 independent contractor, a third-party vendor, or an individual
18 that is employed or contracted by a third-party vendor, who has
19 direct contact with consumers and explains cemetery
20 merchandise or services or negotiates, develops, or finalizes
21 contracts with consumers. This definition does not include an
22 employee, an individual that is an independent contractor or an
23 individual that is employed or contracted by an independent
24 contractor, a third party vendor, or an individual that is
25 employed or contracted by a third party vendor, who merely
26 provides a printed cemetery list to a consumer, processes

1 payment from a consumer, or performs sales functions related
2 solely to incidental merchandise like flowers, souvenirs, or
3 other similar items.

4 "Department" means the Department of Financial and
5 Professional Regulation.

6 "Employee" means an individual who works for a cemetery
7 authority where the cemetery authority has the right to control
8 what work is performed and the details of how the work is
9 performed regardless of whether federal or State payroll taxes
10 are withheld.

11 "Entombment right" means the right to place individual
12 human remains or individual cremated human remains in a
13 specific mausoleum crypt or lawn crypt selected by a consumer
14 for use as a final resting place.

15 "Family burying ground" means a cemetery in which no lots
16 are sold to the public and in which substantially all
17 interments are restricted to the immediate family or a group of
18 individuals related to each other by blood or marriage.

19 "Full exemption" means an exemption granted to a cemetery
20 authority pursuant to subsection (a) of Section 5-20.

21 "Funeral director" means a funeral director as defined by
22 the Funeral Directors and Embalmers Licensing Code.

23 "Grave" means a space of ground in a cemetery used or
24 intended to be used for burial.

25 "Green burial or cremation disposition" means burial or
26 cremation practices that reduce the greenhouse gas emissions,

1 waste, and toxic chemicals ordinarily created in burial or
2 cremation or, in the case of greenhouse gas emissions, mitigate
3 or offset emissions. Such practices include standards for
4 burial or cremation certified by the Green Burial Council or
5 any other organization or method that the Department may name
6 by rule.

7 "Immediate family" means the designated agent of a person
8 or the persons given priority for the disposition of a person's
9 remains under the Disposition of Remains Act and shall include
10 a person's spouse, parents, grandparents, children,
11 grandchildren and siblings.

12 "Imputed value" means the retail price of comparable rights
13 within the same or similar area of the cemetery.

14 "Independent contractor" means a person who performs work
15 for a cemetery authority where the cemetery authority has the
16 right to control or direct only the result of the work and not
17 the means and methods of accomplishing the result.

18 "Individual" means a natural person.

19 "Interment right" means the right to place individual human
20 remains or cremated human remains in a specific underground
21 location selected by a consumer for use as a final resting
22 place.

23 "Inurnment right" means the right to place individual
24 cremated human remains in a specific niche selected by the
25 consumer for use as a final resting place.

26 "Investment Company Act of 1940" means Title 15 of the

1 United States Code, Sections 80a-1 to 80a-64, inclusive, as
2 amended.

3 "Investment company" means any issuer (a) whose securities
4 are purchasable only with care funds or trust funds, or both;
5 (b) that is an open and diversified management company as
6 defined in and registered under the Investment Company Act of
7 1940; and (c) that has entered into an agreement with the
8 Department containing such provisions as the Department by
9 regulation requires for the proper administration of this Act.

10 "Lawn crypt" means a permanent underground crypt installed
11 in multiple units for the entombment ~~interment~~ of human
12 remains.

13 "Licensee" means a person licensed under this Act as a
14 cemetery authority, cemetery manager, or customer service
15 employee. Anyone who holds himself or herself out as a licensee
16 or who is accused of unlicensed practice is considered a
17 licensee for purposes of enforcement, investigation, hearings,
18 and the Illinois Administrative Procedure Act. This definition
19 does not include a cemetery worker.

20 "Mausoleum crypt" means a space in a mausoleum used or
21 intended to be used, above or underground, to entomb human
22 remains.

23 "Niche" means a space in a columbarium or mausoleum used,
24 or intended to be used, for inurnment of cremated human
25 remains.

26 "Partial exemption" means an exemption granted to a

1 cemetery authority pursuant to subsection (b) of Section 5-20.

2 "Parcel identification number" means a unique number
3 assigned to a grave, plot, crypt, or niche that enables the
4 Department to ascertain the precise location of a decedent's
5 remains interred, entombed, or inurned after the effective date
6 of this Act.

7 "Person" means any individual, firm, partnership,
8 association, corporation, limited liability company, trustee,
9 government or political subdivision, or other entity.

10 "Public cemetery" means a cemetery owned, operated,
11 controlled, or managed by the federal government, by any state,
12 county, city, village, incorporated town, township,
13 multi-township, public cemetery district, or other municipal
14 corporation, political subdivision, or instrumentality thereof
15 authorized by law to own, operate, or manage a cemetery.

16 "Religious cemetery" means a cemetery owned, operated,
17 controlled, or managed by any recognized church, religious
18 society, association, or denomination, or by any cemetery
19 authority or any corporation administering, or through which is
20 administered, the temporalities of any recognized church,
21 religious society, association, or denomination.

22 "Secretary" means the Secretary of Financial and
23 Professional Regulation.

24 "Term burial" means a right of interment sold to a consumer
25 in which the cemetery authority retains the right to disinter
26 and relocate the remains, subject to the provisions of

1 subsection (d) of Section 35-15 of this Act.

2 "Trustee" means any person authorized to hold funds under
3 this Act.

4 "Unique personal identifier" means the parcel
5 identification number in addition to the term of burial in
6 years; the numbered level or depth in the grave, plot, crypt,
7 or niche; and the year of death for human remains interred,
8 entombed, or inurned after the effective date of this Act.

9 (Source: P.A. 96-863, eff. 3-1-10.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."